



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Arco Management of Washington, D.C., Inc.

**File:** B-248653.2

**Date:** October 13, 1992

Richard J. Oparil, Esq., Schwalb, Donnenfeld, Bray & Silbert,  
Christina Sklarew, Esq., Office of the General Counsel, GAO,  
participated in the preparation of the decision.

### DIGEST

Where General Accounting Office (GAO) sustained a protest against a contract award based on the inadequacy of the agency's documentation of its evaluations and award decision, and GAO recommended that the agency reevaluate the proposals, subsequent protest alleging that the original source evaluation officials could not conduct an objective reevaluation and urging that the agency appoint new officials is dismissed. Premature and unsupported anticipation of bias in reevaluation provides no basis for protest.

### DECISION

Arco Management of Washington, D.C., Inc. requests that we reconsider the remedy we recommended when we sustained Arco's protest in Arco Mgmt. of Washington, D.C., Inc., B-248653, Sept. 11, 1992, 92-2 CPD ¶ \_\_\_\_.

Arco had protested that the Department of Housing and Urban Development (HUD) had failed to follow the evaluation criteria stated in request for proposals (RFP) No. 13-91-051 when it evaluated Arco's proposal, and that its award decision was improperly based. We sustained the protest on the basis that HUD had provided inadequate documentation of its evaluation process and award determination, so that we were unable to determine whether the agency had acted reasonably when it evaluated the proposals. We recommended that HUD reevaluate the final proposals consistent with the provisions of the RFP, and make its award decision on that basis. Arco now requests that we modify the recommendation to require that a different HUD contracting officer and source evaluation board perform the reevaluation. Although submitted as a request for reconsideration, Arco essentially

is submitting a new protest ground--that the contracting officer and evaluation panel cannot conduct an objective reevaluation.

We consider Arco's protest premature. Where an agency's corrective action involves reevaluating proposals, there is no requirement that the reviewing personnel be replaced. An agency generally retains the discretion to name whichever individuals it chooses to participate in source evaluation and selection. Unless one of the procurement officials on a source selection team has been found to have demonstrated bias--which is not the case here--there is no reason for our Office to make any recommendation as to the composition of an agency's evaluation team.

Anticipation of possible bias on the part of the contracting officer and evaluators appears to form the basis of Arco's request that we reconsider our recommendation. Arco asserts that it is "unrealistic to believe that the officials who conducted the inadequate evaluation, leading to the award to Intown, will be able now to perform a dispassionate and fair reevaluation." There has been no finding that those officials were biased against Arco in the initial evaluation, nor is there any basis for us to find that those officials will act improperly in the reevaluation. The basis of our determination that the evaluation was unreasonable was the agency's lack of supporting documentation for the award, not any finding of bias.

Government officials are presumed to act in good faith and, therefore, for us to conclude that bias exists, the record must contain convincing evidence that the contracting officials had a specific and malicious intent to injure the protester. D. M. Potts Corp., B-247403.2, Aug. 3, 1992, 92-2 CPD ¶ \_\_\_\_\_. Here, those officials have not yet conducted their reevaluation of proposals and there is no reason to assume that they will act improperly. Accordingly, since the contention that the contracting officer and source evaluation board must be replaced arises from a premature and unsupported anticipation of bias, it provides no basis for protest.



Michael R. Golden  
Assistant General Counsel